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related to the employees. Similarly, the salesman is not exempt work, with one concern it is the salesman to be accommodated while actually Under such circumstances, since both man and the trainee a sales jointly, and receive a commission instances, the work considered exempt work. If of a helper who a salesman in trans- samples and who is concerned with effective nonexempt work.

ent limitation on non-

work in the definition of "non-exempt" is limited to "20 hours worked in the nonexempt employees of the 20 percent is composed of 20 hours worked in the non-exempt employees of the outside are no employees of performing such non-exempt work. The amount of non-exempt work will be 3 hours a

es, outside salesmen.

is applicable to an employee in the capacity of an outside salesman and does not include an employee to become outside an employee are not actually performing such non-exempt work. The amount of non-exempt work will be 3 hours a

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ination exemptions.

employees' position under the subpart A of this part "exemption" of exempt work on of the regulations in exempt work under and of those regulations, so who, for example, performance of executive and

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professional work may qualify for exemption. In combination exemptions, however, the employee must meet the stricter of the requirements on salary and nonexempt work. For instance, if the employee performs a combination of an executive's and an outside salesman's function (regardless of which occupies most of his time) he must meet the salary requirement for executives. Also, the total hours of nonexempt work under the definition of "executive" together with the hours of work which would not be exempt if he were clearly an outside salesman, must not exceed either 20 percent of his own time or 20 percent of the hours worked in the workweek by the nonexempt employees of the employer, whichever is the smaller amount.

(b) Under the principles in paragraph (a) of this section combinations of exemptions under the other sections of the regulations in subpart A of this part are also permissible. In short, under the regulations in subpart A, work which is "exempt" under one section of the regulations in subpart A will not defeat the exemption under any other section.

**§541.601 Special provision for motion picture producing industry.**

Under §541.5a, the requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$250 a week (exclusive of board, lodging, or other facilities). Thus, an employee in this industry who is otherwise exempt under §541.1, §541.2, or §541.3 and who is employed at a base rate of at least \$250 a week is exempt if he is paid at least prorata (based on a week of not more than 6 days) for any week when he does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if he is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and his daily base rate would yield at least \$250 if 6 days were worked; or (b) the employee is in a job category having a weekly base rate of at least \$250 and his daily base rate is at least one-sixth

of such weekly base rate. The higher minimum salary tests will be effective on April 1, 1975.

[40 FR 1094, Feb. 12, 1975]

**EFFECTIVE DATE NOTE:** Section 541.601 was revised at 48 FR 3015, Jan. 13, 1981. In accordance with the President's Memorandum of January 29, 1981, 46 FR 11227, Feb. 6, 1981, the effective date was postponed indefinitely at 46 FR 11972, Feb. 12, 1981.

The text of §541.601 set forth above remains in effect pending further action by the issuing agency. The text of the postponed regulation appears below.

**§541.601 Special provision for motion picture producing industry.**

Under §541.5a, the requirement that the employee be paid "on a salary basis" does not apply to an employee in the motion picture producing industry who is compensated at a base rate of at least \$320 per week beginning February 13, 1981 and \$345 per week beginning February 13, 1983, exclusive of board, lodging, or other facilities. Thus, an employee in this industry who is otherwise exempt under §541.1, §541.2, or §541.3 and who is employed at a base rate of at least \$320 per week beginning February 13, 1981 and \$345 per week beginning February 13, 1983 is exempt if he is paid at least prorata (based on a week of not more than 6 days) for any week when he does not work a full workweek for any reason. Moreover, an otherwise exempt employee in this industry qualifies for exemption if he is employed at a daily rate under the following circumstances: (a) The employee is in a job category for which a weekly base rate is not provided and his daily base rate would yield at least \$320 per week beginning February 13, 1981 and \$345 per week beginning February 13, 1983 if 6 days were worked; or (b) the employee is in a job category having a weekly base rate of at least \$320 per week beginning February 13, 1981 and his daily base rate is at least one-sixth of such weekly base rate. The higher minimum salary tests will be effective on February 13, 1981, and February 13, 1983, respectively.

**§541.602 Special provision concerning executive and administrative employees in multi-store retailing operations.**

(a) The tolerance of up to 40 percent of the employee's time which is allowed for nonexempt work performed by an executive or administrative employee of a retail or service establishment does not apply to employees of a multi-unit retailing operation, such as a chainstore system or a retail establishment having one or more branch stores, who perform central functions

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for the organization in physically separated establishments such as warehouses, central office buildings or other central service units or by traveling from store to store. Nor does this special tolerance apply to employees who perform central office, warehousing, or service functions in a multi-unit retailing operation by reason of the fact that the space provided for such work is located in a portion or portions of the building in which the main retail or service establishment or another retail outlet of the organization is also situated. Such employees are subject to the 20-percent limitation on nonexempt work.

(b) With respect to executive or administrative employees stationed in the main store of a multistore retailing operation who engage in activities (other than central office functions) which relate to the operations of the main store, and also to the operations of one or more physically separated units, such as branch stores, of the same retailing operation, the Divisions will, as an enforcement policy, assert no disqualification of such an employee for the section 13(a)(1) exemption by reason of nonexempt activities if the employee devotes less than 40 percent of his time to such nonexempt activities. This enforcement policy would apply, for example, in the case of a buyer who works in the main store of a multistore retailing operation and who not only manages the millinery department in the main store, but is also responsible for buying some or all of the merchandise sold in the millinery departments of the branch stores.

## APPENDIX TO PART 541—OCCUPATIONAL INDEX

NOTE: This index lists, for ease of reference, the sections of this part which refer to job titles. The user should note, however, that where job titles do appear in the illustrations in the text, they should not be construed to mean that employees holding such titles are either exempt or nonexempt or that they meet any one of the specific requirements for exemption.

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 Working supervisor. 541.115  
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 Writer, fiction. 541.303  
 Writer, newspaper. 541.303  
 Writer, scenario. 541.303  
 Writer, short story. 541.303  
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## PART 547—REQUIREMENTS OF A "BONA FIDE THRIFT OR SAVINGS PLAN"

Sec.

547.0 Scope and effect of part.

547.1 Essential requirements for qualifications.

547.2 Disqualifying provisions.

547.3 Petition for amendment of regulations in this part.

**AUTHORITY:** Sec. 7, 52 Stat. 1060, as amended; 29 U.S.C. 207.

**SOURCE:** 29 FR 3864, Aug. 3, 1954, unless otherwise noted.

### § 547.0 Scope and effect of part.

(a) The regulations in this part set forth the requirements of a "bona fide thrift or savings plan" under section 7(a)(3)(B) of the Fair Labor Standards Act of 1938, as amended (hereinafter called the Act). In determining the total remuneration for employment which section 7(e) of the Act requires to be included in the regular rate at which an employee is employed, it is not necessary to include any sums paid to or on behalf of such employee, in recognition of services performed by him during a given period, which are paid pursuant to a bona fide thrift or savings plan meeting the requirements set forth herein. In the formulation of these regulations due regard has been given to the factors and standards set forth in section 7(a)(3)(B) of the Act.

(b) Where a thrift or savings plan is combined in a single program, whether in one or more documents, with a plan or trust for providing profit-sharing payments to employees, or with a plan or trust for providing old age, retirement, life, accident or health insurance or similar benefits for employees, contributions made by the employer pursuant to such thrift or savings plan

may be excluded from the regular rate if the plan meets the requirements of the regulation in this part and the contributions made for the other purposes may be excluded from the regular rate if they meet the tests set forth in regulations, Part 549, or the tests set forth in Interpretative Bulletin part 778 of this chapter, §§ 778.214 and 778.215, as the case may be.

### § 547.1 Essential requirements for qualifications.

(a) A "bona fide thrift or savings plan" for the purpose of section 7(a)(3)(B) of the Act is required to meet all the standards set forth in paragraphs (b) through (f) of this section and must not contain the disqualifying provisions set forth in § 547.2.

(b) The thrift or savings plan constitutes a definite program or arrangement in writing, adopted by the employer or by contract as a result of collective bargaining and communicated or made available to the employees, which is established and maintained, in good faith, for the purpose of encouraging voluntary thrift or savings by employees by providing an incentive to employees to accumulate regularly and retain cash savings for a reasonable period of time or to save through the regular purchase of public or private securities.

(c) The plan specifically shall set forth the category or categories of employees participating and the basis of their eligibility. Eligibility may not be based on such factors as hours of work, production, or efficiency of the employees. *Provided, however,* That hours of work may be used to determine eligibility of part-time or casual employees.

(d) The amount any employee may save under the plan shall be specified in the plan or determined in accordance with a definite formula specified in the plan, which formula may be based on one or more factors such as the straight-time earnings or total earnings, base rate of pay, or length of service of the employee.

(e) The employer's total contribution in any year may not exceed 15 percent of the participating employees' total earnings during that year. In addition, the employer's total contribution in

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any year may not amount saved or in participating employees. *Provided, however,* That a greater contribution to the Admin proved by him as a "savings plan" within section 7(a)(3)(B) of the

(1) The plan meet standards of this section.  
 (2) The plan contain qualifying factors.

§ 547.2:

(3) The employer based to a substantial tention of savings; and

(4) The amount of contribution bears a tionship to the amount tained and the period.

(5) The employer shall be apportioned vidual employees in a definite formula or m tion specified in the mula or method of cal on the amount saved time the individual his savings or invest *Provided,* That no emp terminated in accordan may be diminished other remuneration re

Approved by the Office Budget under control num

29 FR 3864, Aug. 3, 1954, 145, Jan. 5, 1957

### § 547.2 Disqualifying

(a) No employee's the plan shall be on untary basis.

(b) No employee's shall be dependent up by the existence of s rings plan or the emp tions thereto.

(c) The amounts an save under the plan paid by the employer may not be based upon hours of work, product

### § 547.3 Petition for am uations in this part

Any person wishing of the terms of the rec part may submit in wr